

REMARKS

As amended the application contains new claims 40 through 43. Claims 1 through 39 have been cancelled.

New claim 40 is drawn to the compounds prepared in the experimental section of the specification. Claims 41 through 43 are drawn to pharmaceutical compositions thereof and have their basis in original claims 34-36. No new matter has been added.

Claims 1, 6-8, 11, 15-18, 20-22, and 34-36 have been rejected by the Examiner under 35 USC 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim subject matter which Applicant regards as the invention. Specifically, the Examiner points out that an asterisk is lacking to indicate the R² position on ring A when ring A is a piperidinyl ring. Applicants have provided new claim 40 drawn to the experimental compounds such an asterisk is no longer required. This rejection is now moot.

The Examiner has rejected claims 1, 6-8, 11, 15-18, 20-22, and 34-36 under 35 USC 112, second paragraph, as being indefinite with respect to the term "derivative". The term "derivative" is no longer employed in the claims. This rejection is now moot.

Again, the Examiner has rejected claims 1, 6-8, 11, 15-18, 20-22, and 34-36 under 35 USC 112, first paragraph, as not being enabling for "hydrates and solvates". These terms do not appear in the newly presented claims. Therefore this rejection is now moot.

Claims 1, 6-8, 11, 15-18, 20-22, and 34-36 have been rejected by the Examiner under 35 USC 112, first paragraph, as not being enabling with respect to R², R⁹, and R³ for all possibilities that are claimed. In view of new claim 40 drawn to specific compounds made, this rejection of the claims is now moot.

The Examiner alleges that the specification does not provide support for the variables at R², R³, R⁷, and R⁹ positions, nor provide starting materials and/or methods of synthesis for said compounds. The Examiner has also asserted In re Wands with respect to said variables. In view of new claim 40 claiming the

compounds in the experimental section of the specification, this rejection of the claims is now moot.

Claims 1, 6-8, 11, 15-18, 20-21 and 34-36 have been rejected by the Examiner under 35 USC103 (a) as being unpatentable over Pineiro et al (US 7,105,507). It is the Examiner's position that Pineiro differs from the instant application at the position of R¹⁰: Pineiro's phenyl at the 4-position on the cyclohexyl ring versus Applicant's phenyl at the 1-position of the cyclohexyl ring. These are considered positional isomers by the Examiner.

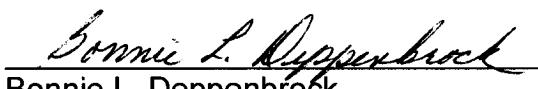
In view of Claim 40, this rejection is now moot.

Claims 1, 6-8, 11, 15-18, 20-21, and 34-36 have been provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-41 of co-pending Application No. 2006/0229336 (10/538,144) and claims 1-24 and 37-39 of co-pending Application No. 2006/0052595 (10/538,145 now U.S. Patent No. 7,452,992) by the Examiner. In response to this rejection Applicants have filed herewith a Terminal Disclaimer rendering this rejection of the claims moot.

The Examiner has rejected Claims 1, 6-8, 11, 15-18, 20-21, and 34-36 on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent No. 7,271,172 (10/538,134). In response to this rejection, Applicants have filed herewith a Terminal Disclaimer rendering this rejection of the claims moot.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge any fees or credit any overpayment, particularly including any fees required under 37 CFR Sect 1.16 or 1.17, and any necessary extension of time fees, to deposit Account No. 07-1392.

Respectfully submitted,



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